

SHER TREMONTE LLP

November 20, 2018

BY ECF

The Honorable Lewis A. Kaplan
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Dumitru*
(18 Cr. 243 (LAK))

Dear Judge Kaplan:

We write on behalf of our client, Andreea Dumitru, to request that she be granted bail pending her sentencing, pursuant to Federal Rule of Criminal Procedure 46(b)(2) and 18 U.S.C. § 3143, and that her previous conditions of release be restored.

A. Legal Standard

Section 3143 of Title 18 provides that the Court is not required to order detention of Ms. Dumitru while she awaits imposition or execution of a sentence if the Court finds by clear and convincing evidence that Ms. Dumitru is not likely to flee or pose a danger to any other person or the community.

B. Ms. Dumitru is Not a Flight Risk or a Danger to the Community

Ms. Dumitru is not a flight risk. In connection with a pending matter in state court, Ms. Dumitru surrendered her two passports – one from the United States and one from Romania – to the New York State Office of the Attorney General. Assistant Attorney General John Healy confirmed via email, attached as **Exhibit A**, that the passports will not be returned to Ms. Dumitru unless and until the Court exonerates bail and orders her released from her bail conditions, typically not before the time of sentencing. As of now, the sentencing in that case has not been scheduled and will not be scheduled until Ms. Dumitru's cooperation is no longer needed. Ms. Dumitru's daughter has surrendered her two passports to counsel for Ms. Dumitru, Jeffrey Hoffman, and copies of those passports are attached as **Exhibit B**. Mr. Hoffman will surrender these to the Government. In connection with the pending state case, Ms. Dumitru is released on a

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\$400,000 bond, which required both Ms. Dumitru and her godfather Cristian Gheorghias to assign their apartments to the bail bond company as collateral for her bond in the state case.

Ms. Dumitru has significant ties to New York and the United States. She has lived in the U.S. for approximately 20 years. Her daughter was born in the United States and is in the tenth grade at a high school in Manhattan. Ms. Dumitru is her daughter's primary caretaker. Ms. Dumitru's daughter lives with her and Ms. Dumitru's boyfriend of over four years, who moved in roughly one year ago. It is unlikely that this arrangement will be practical when Ms. Dumitru is not living in the same home, and therefore it is necessary for Ms. Dumitru and her daughter to evaluate other options for her living arrangements.

Prior to trial, Ms. Dumitru attended a proffer session with the Government and voluntarily surrendered following her indictment. Throughout the duration of the case, Ms. Dumitru has complied fully with the conditions of her release and has appeared in Court as required, all while being fully aware of the charges set forth in both the original and superseding indictments, including the charge of aggravated identity theft, which carries a mandatory minimum sentence.

Ms. Dumitru's role as her daughter's primary caretaker, her voluntary surrender, her compliance with all pre-trial conditions, and her willingness to meet with the Government during a proffer session are factors indicative of Ms. Dumitru's willingness to stay in New York and comply with her bail obligations. *United States v. Rentas*, No. 09 CR 555 (HB), 2009 WL 3444943, at *2 (S.D.N.Y. Oct. 26, 2009) (defendant who was released on bail without incident, complied fully with conditions of release, had no prior criminal record related to drugs or violence, continued her employment, and a single mother with a young daughter was not a flight risk or a danger to the community).

Ms. Dumitru is not a danger to the community. This case did not involve allegations of violence, and Ms. Dumitru has no prior criminal record relating to violent crimes or crimes commonly associated with violent conduct. Moreover, pursuant to the current terms of her release, she is not practicing immigration law.

C. Defendant's Proposed Conditions of Release

In light of Ms. Dumitru's continued compliance with her previous pre-trial release requirements, Defendant respectfully requests that Defendant's previous bail conditions be reinstated. This will allow Ms. Dumitru to get her affairs in order before sentencing, including winding up her business, completing the transfer of her clients' cases to new attorneys, and arranging for her daughter's care upon her sentencing.

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As indicated above, the New York State Office of the Attorney General will maintain possession of Ms. Dumitru's travel documents and Mr. Hoffman will surrender her daughter's passports to the Government until Ms. Dumitru's sentencing.

Respectfully submitted,

/s/ Justin M. Sher

Justin M. Sher
Allegra Noonan

cc: All counsel of record (by ECF